

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	09-00191-01-CR-W-HFS
ANTHONY ELLIOTT BARNES,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On June 16, 2009, counsel for Defendant filed a motion pursuant to 18 U.S.C. § 4241 for a judicial determination of Defendant's mental competency (Doc. No. 10). Defendant was examined by Dr. Jeremiah Dwyer, Ph.D., who prepared a report dated September 8, 2009. The report stated, "Based on Mr. Barnes's current presentation and the information available, there is substantial evidence to indicate that Mr. Barnes does suffer from a mental disorder that significantly impairs his present ability to understand the nature and consequences of the court proceedings against him, and substantially impairs his ability to properly assist counsel in a defense." Dr. Dwyer further opined, "In view of Mr. Barnes's mental condition and related behavior, it is recommended that he be committed to a federal medical center for treatment for restoration to competency pursuant to 18 U.S.C. Section 4241(d)."

On September 21, 2009, I held a competency hearing. Defendant was present, represented by appointed counsel Bill Raymond. The government was represented by Dan Nelson. During the hearing, both parties stipulated to Dr. Dwyer's report (Tr. at 2). Neither party presented any additional evidence. In addition, the parties waived the ten-day objection period to the Report and Recommendation (Tr. at 2-3).

Based upon the uncontroverted evidence stipulated to by the parties in this case, I find that Defendant is not competent to proceed. Therefore, it is

RECOMMENDED that the court, after making an independent review of the record and applicable law, enter an order finding Defendant incompetent to proceed. It is further

RECOMMENDED that the court commit Defendant to the custody of the Attorney General for hospitalization and treatment pursuant to 18 U.S.C. § 4241(d).

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
October 1, 2009